

Steven J. Alizio, Esq.  
Justin B. Shane, Esq.  
The Law Office of Steven Alizio, PLLC  
11 Broadway, Suite 568  
New York, New York 10004  
Telephone: (347) 395-4656  
Facsimile: (347) 214-2233  
Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
C.S. and E.S., individually and on behalf of their minor  
child, B.S.,

**COMPLAINT**

Plaintiffs,

v.

NEW YORK CITY DEPARTMENT OF EDUCATION,

Defendant.  
-----X

Plaintiffs, C.S. and E.S., individually and on behalf of their minor child, B.S., by their attorney, The Law Office of Steven Alizio, PLLC, as and for their Complaint against Defendant, the New York City Department of Education (“Defendant” or “DOE”), allege and state the following.

1. B.S. is the child of Plaintiffs, C.S. and E.S. B.S. is a student with a learning disability. B.S. was at all relevant times a student residing within New York City who is entitled to all rights, entitlements, and procedural safeguards mandated by applicable law and statutes including, but not limited to, the Individuals with Disabilities Education Improvement Act (“IDEA”), 20 U.S.C. §§ 1400, *et seq.*; the federal regulations governing the IDEA; Article 89 of the New York State Education law; and Part 200 of the New York State Education Commissioner’s Regulations.

2. At all relevant times, Plaintiffs and B.S. resided within the County of Manhattan.

3. Plaintiffs and B.S., though known to Defendant, are not expressly named herein by their given names or specific address because of the privacy guarantees provided in the IDEA statute, as well as in the Family Education Rights Privacy Act, 20 U.S.C. § 1232(g) and 34 C.F.R. Part 99. Upon the request of this Court, Plaintiffs are prepared to disclose Plaintiffs' identity *in camera*.

4. Defendant, upon information and belief, is a duly constituted school district organized under the laws of the State of New York and is the "local educational agency" charged with the obligation to provide B.S. with a free and appropriate public education ("FAPE") under the IDEA.

#### **NATURE OF THE ACTION**

5. This action is filed pursuant to the IDEA, 20 U.S.C. § 1415 and follows a substantive hearing that ultimately resulted in a decision on the merits in Plaintiffs' favor.

6. This action is filed to secure statutory attorneys' fees and costs that Plaintiffs should be awarded in this fee application action, and in the underlying administrative proceeding, as a "prevailing party" pursuant to the express fee-shifting provisions of the IDEA, 20 U.S.C. § 1415(i)(3).

#### **JURISDICTION AND VENUE**

7. This Court, pursuant to 20 U.S.C. §§ 1415(i)(2) and (3), 34 C.F.R. §§ 300.516 and 300.517, 28 U.S.C. §§ 1331 and 1367, has jurisdiction over this action without regard to the amount in controversy. Venue is proper in that Defendant resides in or is situated within the judicial district.

#### **FACTUAL BACKGROUND**

8. Pursuant to the IDEA statute, as well as the New York State Education Law, all school agencies within the State are required to offer eligible students with disabilities a special education program and services that are tailored to meet the individual needs of each child with a disability.

9. On or about September 4, 2024, Plaintiffs initiated an administrative due process proceeding, designated case number 284727, against Defendant alleging, *inter alia*, that Defendant denied B.S. a FAPE for the 2024-2025 school year. As relief, Plaintiffs' due process complaint in case number 284727 sought a final order requiring the DOE to fund B.S.'s tuition to the Winston Preparatory School ("Winston Prep.") for the 2024-2025 school year.

10. A hearing on the merits in case number 284727 was held before IHO Patricia Le Goff concerning the claims in Plaintiffs' due process complaint.

11. On or about January 15, 2025, IHO Le Goff issued a Findings of Fact and Decision ("FOFD") in case number 284727 in which she ordered the DOE to fund B.S.'s tuition to Winston Prep. for the 2024-2025 school year.

12. Neither party appealed the decision in case number 284727.

13. As a consequence of the favorable, January 15, 2025 administrative decision of IHO Le Goff in case number 284727, Plaintiffs qualify as a "prevailing party" within the meaning of the IDEA, 20 U.S.C. § 1415(i)(3).

14. Under the IDEA fee-shifting provisions, Plaintiffs should be awarded reasonable attorneys' fees and other recoverable costs for legal services rendered in connection with case number 284727 and in connection with this fee application.

### **FIRST CAUSE OF ACTION**

15. Plaintiffs repeat and reallege paragraphs 1 through 14 as if more fully set forth

herein.

16. Plaintiffs initiated an impartial hearing on behalf of B.S. in case number 284727.

17. Plaintiffs prevailed at the impartial hearing in case number 284727 by obtaining a decision and order from the impartial hearing officer ordering the relief demanded by Plaintiffs.

18. Plaintiffs, having prevailed in case number 284727, hereby demand reasonable fees and costs pursuant to 20 U.S.C. § 1415(i)(3).

19. Plaintiffs have exhausted their administrative remedies, as attorneys' fees and related costs may not be recovered at the administrative level and must be adjudicated and determined by the federal court, absent an agreement by the parties.

**WHEREFORE**, by reason of the foregoing, Plaintiffs respectfully requests that this Court:

- (1) Declare Plaintiffs the prevailing party in case numbers 284727;
- (2) Award to Plaintiffs costs, expenses and attorneys' fees for the administrative proceeding designated case number 284727 pursuant to 20 U.S.C. § 1415;
- (3) Award Plaintiffs the costs, expenses and attorneys' fees of this action pursuant to 20 U.S.C. § 1415;
- (4) Order Defendant to satisfy any judgment in this matter within thirty (30) days of the issuance of the final order; and
- (5) Grant such other and further relief as the Court deems just and proper.

Dated: New York, New York  
June 17, 2025



Steven J. Alizio, Esq.  
Justin B. Shane, Esq.  
The Law Office of Steven Alizio, PLLC  
11 Broadway, Suite 568  
New York, New York 10004  
Telephone: (347) 395-4656  
Facsimile: (347) 214-2233

Attorneys for Plaintiffs